

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE
OF UTAH, IN AND FOR UTAH COUNTY.

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JACOB H. HANCOCK, AMASA JONES,
JOHN F. TERVORT and DAVID W.
HANCOCK

Plaintiffs

vs:

FREEMAN E. TANNER and FREEMAN E.
TANNER JR.

Defendants.

DECREE

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This cause came on to be heard before the Court, sitting without a jury, on the 22nd day of May A.D. 1909, upon the complaint of the plaintiff, as confessed by each of the said defendants, Freeman E. Tanner and Freeman E. Tanner Jr. and the court having heard the evidence produced in behalf of the plaintiffs, and having duly considered the same together with the records, papers and files in the cause, and having heretofore made its findings of facts and conclusions of law which are now filed, now in accordance herewith on motion of E.E. Corfman, attorney for the said plaintiffs, it is ordered, adjudged and decreed:

1.

That the plaintiffs are the owners of in severalty of about one hundred acres of land in Section 7, Township 9 South of Range 2 East of Salt Lake Meridian, in Utah County, State of Utah, which said lands without artificial irrigation are barren and unproductive, but with artificial irrigation become and are productive of large crops of hay, grain, potatoes, sugar beets and other agriculture crops.

11.

That lying easterly of the said lands of the plaintiffs, in the vicinity of the City of Payson, and particularly to the west and north of the said City of Payson, in Utah County, State of Utah, are large areas or tracts of land, which without drainage are rendered wet and marshy, by reason of numerous natural springs of water arising thereon and by reason of water percolating through the soil, and that for more than twenty years prior to the commencement of the plaintiffs' action herein, the plaintiffs and their predecessors in interest have entered into and upon said lands and then and there during said time, by the construction and maintenance of numerous ditches, canals and drains, collected and conserved said waters from said springs and percolating the soil of said lands, and conducted the waters aforesaid to the said lands of the plaintiffs' and which said waters aforesaid until so collected and appropriated and used by the plaintiffs' and their predecessors in interest were unappropriated waters, and that during all of said time the plaintiffs' have used the said waters for the purpose of irrigating of their said lands during the whole of the irrigating season of each and every year, and that during all of said time the same was and has been and is now necessary for the irrigation of the plaintiff's said lands, and that said use has been beneficial and rightful and that the plaintiffs' have been and are now the lawful owners of said waters for said beneficial use, for their said lands.